

REMARKS

As indicated above, this is a Preliminary Amendment for the Request for Continued Examination (RCE) filed herewith for the above-captioned patent application.

Claims 1 - 6 and 21 - 23 are currently pending in this patent application, claims 7 - 20 having been canceled without prejudice or disclaimer in a Preliminary Amendment filed October 31, 2003, claims 21 - 23 having been added, and claims 1 and 21 - 23 being independent claims.

Claim 1 has been amended, and claims 21 - 23 have been added in order to more particularly point out, and distinctly claim the subject matter to which the applicant regards as his invention. The applicant respectfully submits that no new matter has been added.

In the final Office Action dated September 25, 2007, claims 1 - 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Okutoh et al. (U.S. Patent No. 6,201,271) as cited in the Information Disclosure Statement filed November 15, 2005 (hereinafter, "Okutoh"). The applicant respectfully requests reconsideration of this anticipation rejection.

The applicant's claimed invention, as now recited in independent claim 1, is directed to a semiconductor device having a first insulating film formed over a semiconductor substrate; a capacitor constructed by forming a lower electrode, a dielectric film, and an upper electrode sequentially on the first insulating film; a first capacitor protection insulating film covering the dielectric film and the upper electrode; a second capacitor protection insulating film formed on the first capacitor protection insulating film; a second capacitor protection insulating film formed on the first capacitor protection insulating film; a second insulating film formed on the second capacitor protection insulating film; and a first-layer metal wiring formed on the second insulating film and connected electrically to the upper electrode by a plug extending through a contact hole in the second insulating film, the second capacitor protection insulating film and the first capacitor protection insulating film. Also recited in claim 1, an amount of carbon contained in the second capacitor protection insulating film is larger than an amount of carbon contained in the second insulating film.

Significant distinguishable structural arrangements of the applicant's claimed semiconductor device, now recited in claim 1, include the first capacitor protection insulating film covering the dielectric film and the upper electrode; the second capacitor protection insulating film formed on the first capacitor protection insulating film; the second insulating film formed on the second capacitor protection insulating film; and the first-layer metal wiring formed on the second insulating film and connected electrically to the upper electrode by a plug extending through a contact hole in the second insulating film, the second capacitor protection insulating film and the first capacitor protection

insulating film.

In the outstanding anticipation rejection, the Examiner alleges that layer of (12) of Okutoh (diffusion preventing layer) corresponds to the presently claimed “first capacitor protection insulating film” (14); that layer (13) of Okutoh (second layer insulating film) corresponds to the presently claimed “second capacitor protection insulating film” (16); and that layer (17) of Okutoh (third interlayer insulating film) corresponds to the presently claimed “second insulating film” (17).

In order to more clearly distinguish the claimed invention, “a first-layer metal wiring” is added in the present claim 1. Claim 1 has been amended in order to more positively recite a first-layer metal wiring formed on the second insulating film and connected electrically to the upper electrode by a plug extending through a contact hole in the second insulating film, the second capacitor protection insulating film and the first capacitor protection insulating film. The basis for the claim amendments is found in, for example, lines 8 - 13, page 35 of the applicant’s specification, and illustrated in, for example, the applicant’s Figure 1R.

Accordingly, since not all of the claimed elements, as now recited in independent claim 1, are found in exactly the same situation and united in the same way to perform the identical function in Okutoh’s apparatus, there can be no anticipation of the claimed invention based on the teachings of Okutoh.

Moreover, claims 2 - 6 depend on independent claim 1, and further limit the scope of the claim 1. Thus, at least for the reasons set forth above with respect to claim 1, claims 2 – 6 should now be similarly allowable.

The applicant's claimed invention, as recited in independent claim 21, is directed to a semiconductor device having a first insulating film formed over a semiconductor substrate; a capacitor constructed by forming a lower electrode, a dielectric film, and an upper electrode sequentially on the first insulating film; a first capacitor protection insulating film covering the upper surface of the upper electrode and the aspect of the upper electrode and the dielectric film; a second capacitor protection insulating film formed on the first capacitor protection insulating film; and a second insulating film formed, in its entirety, directly on the second capacitor protection insulating film.

Significant distinguishable structural arrangements of the applicant's claimed semiconductor device, recited in claim 21, include the first capacitor protection insulating film covering the upper surface of the upper electrode and the aspect of the upper electrode and the dielectric film; the second capacitor protection insulating film formed on the first capacitor protection insulating film; and the second insulating film formed, in its entirety, directly on the second capacitor protection insulating film.

In order to be more clearly distinguish the claimed invention, “a first capacitor protection insulating film” is recited in the new claim 21. Claim 21 has been added in order to more positively recite the claimed the first capacitor protection insulating film covering the upper surface of the upper electrode and the aspect of the upper electrode and the dielectric film. Also positively recited in claim 21 are the second capacitor protection insulating film formed on the first capacitor protection insulating film; and the second insulating film formed, in its entirety, directly on the second capacitor protection insulating film. The bases for these claim amendments are found in, for example, lines 5 - 10, page 36, and illustrated in, for example, the applicant’s Figure 1R.

The applicant’s claimed invention, as set forth in claim 22, is directed to a semiconductor device having a first insulating film formed over a semiconductor substrate; a capacitor constructed by forming a lower electrode, a dielectric film, and an upper electrode sequentially on the first insulating film; a first capacitor protection insulating film covering the dielectric film and the upper electrode; a second capacitor protection insulating film formed on the first capacitor protection insulating film; a second capacitor protection insulating film formed on the first capacitor protection insulating film; a second insulating film formed on the first capacitor protection insulating film; and a first-layer metal wiring formed on the second insulating film and connected electrically to the upper electrode by a plug extending through a contact hole in the second insulating film.

Significant distinguishable structural arrangements, as set forth in claim 22, include the first capacitor protection insulating film covering the dielectric film and the upper electrode; the second capacitor protection insulating film formed on the first capacitor protection insulating film; the second insulating film formed on the second capacitor protection insulating film; and the first-layer metal wiring formed on the second insulating film and connected electrically to the upper electrode by a plug extending through a contact hole in the second insulating film.

The claimed “first-layer metal wiring” is included in claim 22. More particularly, claim 22 more positively recites a first-layer metal wiring formed on the second insulating film and connected electrically to the upper electrode by a plug extending through a contact hole in the second insulating film.

Added claim 23 depends on independent claim 22, and further recites that the claimed first-layer metal wiring is formed on the second insulating film and connected electrically to the upper electrode by the plug extending through the contact hole in the second insulating film, the second capacitor protection insulating film and the first capacitor protection insulating film.

The bases for these claim amendments, in added claims 22 and 23, are found in, for example, lines 8 - 13, page 35 of the applicant's specification, and illustrated in, for example, the applicant's Figure 1R.

With respect to added claims 22 and 23, see also the applicant's arguments with respect to claim 1 on how the claimed invention, as now recited in claim 1, is distinguished over the teachings of the cited prior art. Such comments on claim 1 are similarly applicable to claims 22 and 23.

Accordingly, since not all of the claimed elements, as now recited in each of independent claims 21 - 23, are found in exactly the same situation and united in the same way to perform the identical function in Okutoh's apparatus, there can be no anticipation of the claimed invention based on the teachings of Okutoh.

In view of above, the withdrawal of the outstanding anticipation rejection under 35 USC §102(b) based on Okutoh (U.S. Patnet No. 6,201,271), cited in the Information Disclosure Statement filed November 15, 2005, is in order, and is therefore respectfully solicited.

In view of the aforementioned amendments and accompanying remarks, claims, as amended, are in condition for allowance, which action, at an early date, is required.

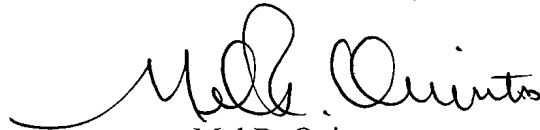
U.S. Patent Application Serial No. 10/697,944
Preliminary Amendment filed February 26, 2007

If for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicant's undersigned attorney at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicant respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees may be due with respect to this paper to Deposit Account No. 01-2340.

Respectfully submitted,

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